

Serial No. 09/970,477
Amdt. dated October 22, 2003
Reply to Notice of Non-Responsiveness
of September 22, 2003

Docket No. 2629-4005US4

REMARKS/ARGUMENTS

Claims 8-12 are pending in this application.

Double Patenting Rejection

1. The Examiner contends that the June 13, 2003 reply was not fully responsive to the prior Office Action because "Applicants have neither indicated that they will file a terminal disclaimer upon notification of allowable subject matter, nor provided any arguments or reasons why the rejection is believed to be improper" (Notice of 9/22/03, page 2). However, applicants respectfully point to the June 13, 2003 response at page 11, paragraph 9 under Double Patenting Rejection where applicants indicate that should claims be allowed, applicants would consider filing a terminal disclaimer at that time.

For clarification, applicants agree to file a terminal disclaimer once claims 8-12, which have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, respectively, of U.S. Patent No. 6,355,424B1, are in condition for allowance, all but for the double patenting rejection.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account No. 13-4500, Order No. 2629-4005US4.

Respectfully submitted,
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